IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH,

AT HYDERABAD

HON'BLE SRI JUSTICE C.Y. SOMAYAJULU

WRIT PETITION No. 20460 OF 2005

Date:21.09.2005

BETWEEN:

Motupalli Subba Rangaiah

…. PETITIONER

Vs.

1. The Revenue Divisional Officer, Anantapur, Anantapur District, and others.

…. RESPONDENTS

THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

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WRIT PETITION No. 20460 OF 2005

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ORDER:

On the basis that he is the owner of Ac.5.13 cents in S.No.38 of Rayalcheruvu Village, petitioner obtained a ryotwary passbook from the Mandal Revenue Officer (second respondent). After coming to know about that fact R.P. Nagabhushana Reddy, a devotee of Manikya Seetaramaswamy Temple, and also the Assistant Commissioner, Endowments Department, Anantapur District (third respondent) made requests through letters to Revenue Divisional Officer, Anantapur (first respondent) to cancel the passbook issued to the petitioner and to issue a passbook for that land in favour of Manikya Seetaramaswamy

Temple. On the basis of those letters, first respondent called for a report from second respondent, who after making a spot inspection sent a report to first respondent informing that passbook was wrongly issued to the petitioner and that it has to be cancelled as per the Rules in force. When, first respondent issued notice to the petitioner to show casue why his passbook cannot be cancelled, he appeared before the first respondent through a counsel and took time for filing counter, but, did not appear before the first respondent either in person or through his counsel on the next date of adjournment, i.e., 6.8.2005. Therefore, first respondent by the order impugned in this petition cancelled the patta granted in favour of the petitioner. Hence this petition.

Learned counsel for the petitioner strongly relying on **Sannepalli Nageswar Rao v. District Collector, Khammam** contended that first respondent has no jurisdiction to cancel the patta issued by second respondent.

The contention of the learned Government Pleader is that since first respondent treated the petition of the third respondent, and a devotee, as an appeal against the order of the second respondent, and served on the petitioner a notice of appeal under the provisions of the Andhra Pradesh Rights in Land and Pattedar Passbooks Act, 1971 (for short 'the Act'), the ratio in *Sannepalli Nageswar Rao's* case, (1 supra) relied on by the learned counsel for the petitioner, does not apply to this case.

No doubt, the record produced by the learned Government Pleader shows that the notice served on the petitioner is in the form of an appeal against the order of second respondent granting pattadar passbook in favour of the petitioner. Order of the second respondent granting patta in favour of the petitioner is not available. The record produced by the learned Government Pleader, shows that first respondent passed the order impugned solely basing on the report of the second respondent, but not as an order in an appeal against the order of the second respondent. So, the contention that the order impugned was passed by first respondent in the appeal preferred by the third respondent and another cannot be accepted.

In *Sannepalli Nageswar Rao's* case (1 supra) it is clearly held that if an order is passed by the Mandal Revenue Officer contrary to the provisions of the Act, the remedy of the aggrieved party is to approach the Mandal Revenue

Officer concerned for amendment, and an appeal would lie against the order passed thereon by the Mandal Revenue Officer. In view thereof third respondent, or any of the devotees, if aggrieved by the patta granted in favour of the petitioner, have to file a petition before second respondent for cancellation of pattadar passbook issued in favour of the petitioner. If the third respondent or any of the devotees or the trustees of the Devasthanam, feel that the petitioner is in illegal occupation of the land of the Devasthanam and is enjoying the profits therefrom, they can file a suit for recovery of damages etc., from the petitioner, in a civil Court.

For the above reasons the order impugned is quashed giving liberty to the third respondent to approach second respondent with an application for cancellation of pattadar passbook issued in favour of the petitioner. When such petition is filed second respondent shall receive the same and pass appropriate orders thereon as per the procedure prescribed by law, after affording an opportunity of being heard to both sides.

Accordingly, the Writ Petition is disposed of. No costs.

C.Y. Somayajulu, J.

21st September, 2005

js.